

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 WENDY WIDLUS
Deputy Attorney General
4 State Bar No. 82958
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2867
Facsimile: (213) 897-9395
7 E-mail: Wendy.Widlus@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation/Petition to
12 Revoke Probation Against,

13 **STEPHEN ROBERT SHAW, M.D.**
14 **3418 Loma Vista Rd., Ste. 1A,**
Ventura, CA 93003
15 **Physician's and Surgeon's Certificate No. G**
47926,

16 Respondent.

Case No. D1-2002-141849

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

17
18
19
20 **FINDINGS OF FACT**

21 1. On or about May 10, 2013, Complainant Kimberly Kirchmeyer, in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs, filed Accusation/Petition to Revoke Probation No. D1-2002-141849 against Stephen
24 Robert Shaw, M.D. (Respondent) before the Medical Board of California.

25 2. On or about July 1, 1982, the Medical Board of California (Board) issued Physician's
26 and Surgeon's Certificate No. G 47926 to Respondent. The Physician's and Surgeon's Certificate
27 was in full force and effect at all times relevant to the charges brought herein. Respondent's
28 certificate expired on November 30, 2013 and is in a delinquent status. In a disciplinary action

1 entitled *In the Matter of Accusation Against Stephen Robert Shaw, M.D.*, Case No. 08-2002-
2 141849, the Board issued a decision, effective July 29, 2011, in which Respondent's Physician's
3 and Surgeon's Certificate was revoked. The revocation was stayed and Respondent's Physician's
4 and Surgeon's Certificate was placed on probation for a period of five (5) years with terms and
5 conditions. A copy of the Accusation/Petition to Revoke Probation are attached as Exhibit A, and
6 are incorporated herein by reference.

7 3. On or about May 10, 2013 and August 26, 2013, Medical Board Associate
8 Enforcement Analyst John F. Yelchak (Yelchak), served by Certified Mail a copy of the
9 Accusation/Petition to Revoke Probation No. D1-2002-141849, Statement to Respondent, Notice
10 of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and
11 11507.7 to Respondent's address of record with the Board, which was 3418 Loma Vista Road,
12 Suite 1A, Ventura, California, 93003.

13 4. Service of the Accusation/Petition to Revoke Probation was effective as a matter of
14 law under the provisions of Government Code section 11505, subdivision (c).

15 5. The aforementioned documents were returned by the U.S. Postal Service marked
16 "Not Deliverable as Addressed" "Return To Sender" "Unable To Forward."

17 6. No Notice of Defense was received by either the Board or the Office of the Attorney
18 General.

19 7. On or about August 26, 2013 and September 10, 2013, Yelchak served by Certified
20 Mail a copy of the Accusation/Petition to Revoke Probation No. D1-2002-141849, Statement to
21 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
22 11507.6, and 11507.7 to an additional address for Respondent, which was 880 Pacific Strand Ct
23 #203, Ventura, California, 93003.

24 8. Service of the Accusation/Petition to Revoke Probation was effective as a matter of
25 law under the provisions of Government Code section 11505, subdivision (c).

26 9. The aforementioned documents were returned by the U.S. Postal Service marked
27 "Not Deliverable as Addressed" "Return To Sender" "Unable To Forward."

28 10. No Notice of Defense was received by the Board.

1 10. A copy of the Declaration of Yelchak attesting to the foregoing facts attached as
2 Exhibit B, and is incorporated herein by reference.

3 11. Inspector Rachel Wachholz-Lasota (Wachholz-Lasota) is employed as an Inspector
4 III for the Probation Unit of the Medical Board of California.

5 12. On or about July 29, 2011, Wachholz-Lasota was assigned to monitor Respondent's
6 compliance with his probation and collected evidence demonstrating Respondent violated
7 numerous terms and conditions of his Probation Order which led to the filing of the
8 Accusation/Petition to Revoke Probation No. D1-2002-141849.

9 13. A copy of the Declaration of Wachholz-Lasota attesting to the foregoing facts
10 regarding Respondent's failure to comply with his probationary terms and conditions is attached
11 as Exhibit C, and is incorporated herein by reference.

12 10. Deputy Attorney General Wendy Widlus (Widlus) is assigned to prepare the Default
13 Decision & Order in the above matter and has reviewed the file. No Notice of Defense was
14 received by the Office of the Attorney General.

15 11. A copy of the Declaration of Widlus attesting to the fact that no Notice of Defense
16 from Respondent was ever received by the California Department of Justice, Health Quality
17 Enforcement Section is attached as Exhibit D, and is incorporated herein by reference.

18 12. Government Code section 11506 states, in pertinent part:

19 “(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
20 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
21 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
22 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.”

23 13. Respondent failed to file a Notice of Defense within 15 days after service upon him
24 of the Accusation/Petition to Revoke Probation, and therefore waived his right to a hearing on the
25 merits of Accusation/Petition to Revoke Probation No. D1-2002-141849.

26 14. On or about September 29, 2014, Monica Loera, an employee of the Office of The
27 Attorney General, served by U.S. Postal Service Male, a copy of a Courtesy Notice of Default
28 No. D1-2002-141849, which stated that Respondent had failed to file a Notice of Defense as

1 required by law and that the Board would enter a Default Decision against Respondent's license.
2 To date, Respondent has not responded to the Courtesy Notice of Default.

3 15. California Government Code section 11520 states, in pertinent part:

4 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
5 agency may take action based upon the respondent's express admissions or upon other evidence
6 and affidavits may be used as evidence without any notice to respondent."

7 16. Pursuant to its authority under Government Code section 11520, the Board finds
8 Respondent is in default. The Board will take action without further hearing and, based on
9 Respondent's express admissions by way of default and the evidence before it, contained in
10 exhibits A, B, C, D, and E, finds that the allegations in Accusation/Petition to Revoke Probation
11 No. D1-2002-141849 are true.

12 DETERMINATION OF ISSUES

13 1. Based on the foregoing findings of fact, Respondent STEPHEN ROBERT SHAW,
14 M.D. has subjected his Physician's and Surgeon's Certificate No. G 47926 to discipline.

15 2. A copy of the Accusation/Petition to Revoke Probation and the related documents and
16 Declaration of Service are attached.

17 3. The agency has jurisdiction to adjudicate this case by default.

18 4. The Medical Board of California is authorized to revoke Respondent's Physician's
19 and Surgeon's Certificate based upon the following violations alleged in the Accusation/Petition
20 to Revoke Probation:

21 a. Business and Professions Code section 2227 and section 2234, subsection (f) :
22 First Cause to Revoke Probation: Failure to Abstain From Alcohol.

23 b. Business and Professions Code section 2227 and section 2234, subsection (f) :
24 First Cause to Revoke Probation: Failure to Submit to Biological Fluid Testing.

25 c. Business and Professions Code section 2227 and section 2234, subsection (f) :
26 First Cause to Revoke Probation: Failure to Complete Continuing Medical Education.

27 d. Business and Professions Code section 2227 and section 2234, subsection (f) :
28 First Cause to Revoke Probation: Failure to Successfully Complete Clinical Training Program.

1 e. Business and Professions Code section 2227 and section 2234, subsection (f) :
2 First Cause to Revoke Probation: Failure to Comply with Psychotherapy Requirement.

3 f. Business and Professions Code section 2227 and section 2234, subsection (f) :
4 First Cause to Revoke Probation: Failure to Provide Quarterly Declarations.

5 g. Business and Professions Code section 2227 and section 2234, subsection (f) :
6 First Cause to Revoke Probation: Failure to Complete Continuing Medical Education.

7 h. Business and Professions Code section 2227 and section 2234, subsection (f) :
8 First Cause to Revoke Probation: Failure to Submit to Interview.

9 i. Business and Professions Code section 2227 and section 2234, subsection (f) :
10 First Cause to Revoke Probation: Failure to Pay Probation Monitoring Costs.

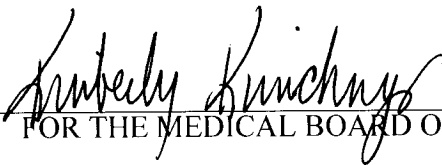
11 **ORDER**

12 **IT IS SO ORDERED** that Physician's and Surgeon's Certificate No. G 47926, heretofore
13 issued to Respondent STEPHEN ROBERT SHAW, M.D., is revoked.

14 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
15 written motion requesting that the Decision be vacated and stating the grounds relied on within
16 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
17 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

18 This Decision shall become effective on October 30, 2015.

19 It is so ORDERED October 2, 2015

20
21 
22 FOR THE MEDICAL BOARD OF CALIFORNIA
23 DEPARTMENT OF CONSUMER AFFAIRS
24 KIMBERLY KIRCHMEYER
25 EXECUTIVE DIRECTOR
26
27
28

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO, MAY 10, 2013
BY: T. G. [Signature] ANALYST

In the Matter of the Accusation and Petition to
Revoke Probation Against:

STEPHEN ROBERT SHAW, M.D.,
3418 Loma Vista Road, Suite 1A
Ventura, California 93003

ACCUSATION AND PETITION TO REVOKE PROBATION

Physician's and Surgeon's Certificate
No. G 47926

Respondent.

PARTIES

1. Linda K. Whitney (Complainant) brings this Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about July 1, 1982, the Medical Board of California issued Physician's and Surgeon's Certificate Number G 47926 to Stephen Robert Shaw, M.D. (Respondent). The Physician's and Surgeon's Certificate was in effect at all times relevant to the charges brought herein and will expire on November 30, 2013, unless renewed.

JURISDICTION

3. This Accusation and Petition to Revoke Probation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the

1 following laws. All section references are to the Business and Professions Code unless otherwise
2 indicated.

3 4. Section 2229 of the Code states, in subdivision (a):

4 "Protection of the public shall be the highest priority for the Division of Medical Quality,¹
5 the California Board of Podiatric Medicine, and administrative law judges of the Medical Quality
6 Hearing Panel in exercising their disciplinary authority."

7 5. Section 2227 of the Code provides that a licensee who is found guilty under the
8 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
9 one year, placed on probation and required to pay the costs of probation monitoring, or such other
10 action taken in relation to discipline as the Board deems proper.

11 6. Section 2234 of the Code states:

12 "The Board shall take action against any licensee who is charged with unprofessional
13 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
14 limited to, the following:

15 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
16 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
17 Practice Act].

18 . . .

19 "(d) Incompetence.

20 "(e) The commission of any act involving dishonesty or corruption which is substantially
21 related to the qualifications, functions, or duties of a physician and surgeon.

22 "(f) Any action or conduct which would have warranted the denial of a certificate."

23 7. In a disciplinary action entitled *In the Matter of Accusation Against Stephen Robert*
24 *Shaw, M.D.*, Case No. 08-2002-141849, the Medical Board of California issued a decision,
25 effective July 29, 2011, in which Respondent's Physician's and Surgeon's Certificate was
26 revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's

27 ¹ Pursuant to Business and Professions Code section 2002, the "Division of Medical
28 Quality" or "Division" shall be deemed to refer to the Medical Board of California.

1 Certificate was placed on probation for a period of five (5) years with numerous terms and
2 conditions. A copy of that decision and order is attached and is incorporated by reference.
3 (Exhibit A: Probation Order) For convenience, pertinent portions of the Board's Order are
4 recited as applicable below.

5 **FIRST CAUSE TO REVOKE PROBATION**

6 *(Failure to Abstain From Alcohol)*

7 8. At all times after the effective date of Respondent's probation, Condition 18 stated:
8 "Failure to fully comply with any term or condition of probation is a violation of probation.
9 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
10 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
11 stayed. . . ."

12 9. At all times after the effective date of Respondent's probation, Condition 1 stated:
13 "Respondent shall abstain completely from the use of products or beverages containing
14 alcohol."

15 10. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition 1, referenced above. The facts and circumstances regarding this violation
17 are as follows:

18 11. Respondent failed to abstain completely from the use of products or beverage
19 containing alcohol prior to providing random urine samples on each of the following dates: May
20 2, 2012; May 14, 2012; May 18, 2012; and June 15, 2012. Laboratory test results of urine
21 samples from Respondent on those days were positive for a direct metabolite of alcohol.

22 **SECOND CAUSE TO REVOKE PROBATION**

23 *(Failure to Submit to Biological Fluid Testing)*

24 12. At all times after the effective date of Respondent's probation, Condition 18 stated:
25 "Failure to fully comply with any term or condition of probation is a violation of probation.
26 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
27 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
28 stayed. . . ."

1 13. At all times after the effective date of Respondent's probation, Condition 2 stated:

2 "Respondent shall immediately submit to biological fluid testing, at respondent's expense,
3 upon the request of the Division or its designee. A certified copy of any laboratory test results
4 may be received in evidence in any proceedings between the Board and the respondent. Failure
5 to submit to, or failure to complete the required biological fluid testing, is a violation of
6 probation."

7 14. Respondent's probation is subject to revocation because he failed to comply with
8 Probation Condition 2, referenced above. He failed to submit to the required biological fluid
9 testing during the course of his probation. The facts and circumstances regarding this violation
10 are as follows:

11 15. Respondent was required to contact the FirstLab system by phone or internet each
12 day and report for biological fluid testing if so advised. The FirstLab system randomly assigned
13 dates for testing three to six times every month. On December 24, 2011, May 25, 2012, June 2,
14 2012, June 11, 2012, June 29, 2012, July 1, 2012 and every subsequent day in the following nine
15 months up to and including April 8, 2013, Respondent failed to contact the FirstLab system.
16 Likewise, during that timeframe, Respondent failed to submit to required biological fluid testing.

17 **THIRD CAUSE TO REVOKE PROBATION**

18 *(Failure to Complete Continuing Medical Education)*

19 16. At all times after the effective date of Respondent's probation, Condition 18 stated:

20 "Failure to fully comply with any term or condition of probation is a violation of probation.
21 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
22 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
23 stayed. . . ."

24 17. At all times after the effective date of Respondent's probation, Condition 3 stated:

25 "Within 60 calendar days of the effective date of this Decision, and on an annual basis
26 thereafter, for the first three years of probation, respondent shall submit to the Division or its
27 designee for its prior approval educational program(s) or course(s) which shall not be less than 40
28 hours per year, for each year of probation. . . The [courses shall be] in addition to the Continuing

1 Medical Education (CME) requirements for renewal of licensure. . . . Respondent shall provide
2 proof of attendance for 65 hours of continuing medical education of which 40 hours were in
3 satisfaction of this condition.”

4 18. Respondent’s probation is subject to revocation because he failed to comply with
5 Probation Condition 3, referenced above. The facts and circumstances regarding this violation
6 are as follows:

7 19. As of April 8, 2013, during the one year and seven months Respondent served on
8 probation, he failed to provide proof of attendance for any hours of continuing medical education
9 to the Board.

10 **FOURTH CAUSE TO REVOKE PROBATION**

11 *(Failure to Successfully Complete Clinical Training Program)*

12 20. At all times after the effective date of Respondent’s probation, Condition 18 stated:

13 “Failure to fully comply with any term or condition of probation is a violation of probation.
14 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
15 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
16 stayed. . . .”

17 21. At all times after the effective date of Respondent’s probation, Condition 4 stated:

18 “Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a
19 clinical training or educational program equivalent to the Physician Assessment and Clinical
20 Education Program (PACE) offered at the University of California - San Diego School of
21 Medicine (“Program”).

22 “The Program shall consist of a Comprehensive Assessment program comprised of a two-
23 day assessment of respondent’s physical and mental health; basic clinical and communication
24 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
25 respondent’s specialty or sub-specialty, and at minimum, a 40 hour program of clinical education
26 in the area of practice in which respondent was alleged to be deficient and which takes into
27 account data obtained from the assessment, Decision(s), Accusation(s), and any other information
28 that the Division or its designee deems relevant. Respondent shall pay all expenses associated

1 with the clinical training program.

2 "Based on respondent's performance and test results in the assessment and clinical
3 education, the Program will advise the Division or its designee of its recommendation(s) for the
4 scope and length of any additional educational or clinical training, treatment for any medical
5 condition, treatment for any psychological condition, or anything else affecting respondent's
6 practice of medicine. Respondent shall comply with Program recommendations.

7 "At the completion of any additional educational or clinical training, respondent shall
8 submit to and pass an examination. The Program's determination whether or not respondent
9 passed the examination or successfully completed the Program shall be binding.

10 "Respondent shall complete the Program not later than six months after respondent's initial
11 enrollment unless the Division or its designee agrees in writing to a later time for completion.

12 "Failure to participate in and complete successfully all phases of the clinical training
13 program outlined above is a violation of probation.

14 "If respondent fails to complete the clinical training program within the designated time
15 period, respondent shall cease the practice of medicine within 72 hours after being notified by the
16 Division or its designee that respondent failed to complete the clinical training program."

17 22. Respondent's probation is subject to revocation because he failed to comply with
18 Probation Condition 4, referenced above. He failed to timely enroll in a permissible clinical
19 training or educational program, he failed to timely (within six months of enrollment) complete a
20 permissible program and he failed to successfully complete all phases of a permissible program.
21 The facts and circumstances regarding this violation are as follows:

22 23. The decision placing Respondent on probation became effective on July 29, 2011.
23 Although Respondent was required to enroll in a permissible clinical training or education
24 program within sixty days (by the end of September of 2011), Respondent failed to enroll in a
25 suitable clinical training or education program until January 20, 2012, over three months past the
26 timeline required. After finally enrolling, Respondent failed to attend the program's initial phase,
27 scheduled for June 18 and 19, 2012. As of April 8, 2013, Respondent failed to attend, much less
28 successfully complete, the required clinical training or educational program.

1 **FIFTH CAUSE TO REVOKE PROBATION**

2 *(Failure to Comply with Psychotherapy Requirement)*

3 24. At all times after the effective date of Respondent's probation, Condition 18 stated:

4 "Failure to fully comply with any term or condition of probation is a violation of probation.
5 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
6 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
7 stayed. . . ."

8 25. At all times after the effective date of Respondent's probation, Condition 6 stated:

9 "Within 60 calendar days of the effective date of this Decision, respondent shall submit to
10 the Division or its designee for prior approval the name and qualifications of a board certified
11 psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five
12 years of postgraduate experience in the diagnosis and treatment of emotional and mental
13 disorders. Upon approval, respondent shall undergo and continue treatment, including any
14 modifications to the frequency of psychotherapy, until the Division or its designee deems that no
15 further psychotherapy is necessary.

16 "The psychotherapist shall consider any information provided by the Division or its
17 designee and any other information the psychotherapist deems relevant and shall furnish a written
18 evaluation report to the Division or its designee. Respondent shall cooperate in providing the
19 psychotherapist any information and documents that the psychotherapist may deem pertinent.
20 Respondent shall have the treating psychotherapist submit quarterly status reports to the Division
21 or its designee. The Division or its designee may require respondent to undergo psychiatric
22 evaluations by a Division-appointed board certified psychiatrist.

23 "If, prior to the completion of probation, respondent is found to be mentally unfit to resume
24 the practice of medicine without restrictions, the Division shall retain continuing jurisdiction over
25 respondent's license, and the period of probation shall be extended until the Division determines
26 that respondent is mentally fit to resume the practice of medicine without restrictions.

27 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

28 "Failure to undergo and continue psychotherapy treatment, or comply with any required

1 modification in the frequency of psychotherapy, is a violation of probation.”

2 26. Respondent’s probation is subject to revocation because he failed to comply with
3 Probation Condition 6, referenced above. The facts and circumstances regarding this violation
4 are as follows:

5 27. Respondent underwent psychotherapy treatment from an approved psychiatrist
6 approximately every three months. The Board received quarterly status reports from the treating
7 psychiatrist on October 10, 2011, February 3, 2012 and April 23, 2012. In the subsequent nine
8 months, up to and including April 8, 2013, Respondent failed to continue the required
9 psychotherapy treatment or have his psychiatrist submit further quarterly status reports to the
10 Board or its designee.

11 **SIXTH CAUSE TO REVOKE PROBATION**

12 *(Failure to Provide Quarterly Declarations)*

13 28. At all times after the effective date of Respondent’s probation, Condition 18 stated:
14 “Failure to fully comply with any term or condition of probation is a violation of probation.
15 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
16 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
17 stayed. . . .”

18 29. At all times after the effective date of Respondent’s probation, Condition 12 stated:
19 “Respondent shall submit quarterly declarations under penalty of perjury on forms
20 provided by the Division, stating whether there has been compliance with all the conditions of
21 probation. Respondent shall submit quarterly declarations not later than 10 calendar days after
22 the end of the preceding quarter.”

23 30. Respondent’s probation is subject to revocation because he failed to comply with
24 Probation Condition 12, referenced above. The facts and circumstances regarding this violation
25 are as follows:

26 31. As of April 8, 2013, the last quarterly declaration under penalty of perjury on the
27 required form that Respondent submitted to the Board was received on April 11, 2012.
28

1 Respondent failed to submit quarterly declarations for the second quarter of 2012, the third
2 quarter of 2012, the fourth quarter of 2012 and the first quarter of 2013.

3 **SEVENTH CAUSE TO REVOKE PROBATION**

4 *(Failure to Submit to Interview)*

5 32. At all times after the effective date of Respondent's probation, Condition 18 stated:
6 "Failure to fully comply with any term or condition of probation is a violation of probation.
7 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
8 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
9 stayed. . . ."

10 33. At all times after the effective date of Respondent's probation, Condition 14 stated:
11 "Respondent shall be available in person for interviews either at respondent's place of
12 business or at the probation unit office, with the Division or its designee, upon request at various
13 intervals, and either with or without prior notice throughout the term of probation."

14 34. Respondent's probation is subject to revocation because he failed to comply with
15 Probation Condition 14, referenced above. The facts and circumstances regarding this violation
16 are as follows:

17 35. As of April 8, 2013, the last quarterly interview that Respondent attended was on
18 June 5, 2012, at his medical office. Respondent failed to attend, or offer any explanation
19 regarding his failure to attend, a quarterly interview scheduled for September 12, 2012, at the
20 Board's Glendale District Office.

21 **EIGHTH CAUSE TO REVOKE PROBATION**

22 *(Failure to Pay Probation Monitoring Costs)*

23 36. At all times after the effective date of Respondent's probation, Condition 18 stated:
24 "Failure to fully comply with any term or condition of probation is a violation of probation.
25 If Respondent violates probation in any respect, the Board, after giving Respondent notice and the
26 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
27 stayed. . . ."

28 37. At all times after the effective date of Respondent's probation, Condition 20 stated:

1 “Respondent shall pay the costs associated with probation monitoring each and every year
2 of probation, as designated by the Division[.] Such costs shall be payable to the Medical Board
3 of California and delivered to the Division or its designee no later than January 31 of each
4 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of
5 probation.”

6 38. Respondent’s probation is subject to revocation because he failed to comply with
7 Probation Condition 20, referenced above. The facts and circumstances regarding this violation
8 are as follows:

9 39. As of April 8, 2013, Respondent has failed to pay probation monitoring costs for
10 2011 and 2012 and owes a total of \$5,763.00 to the Board.

11 **CAUSE FOR DISCIPLINE**

12 *(General Unprofessional Conducts)*

13 40. Respondent is subject to disciplinary action under sections 2227 and 2234 in that he
14 committed unprofessional conduct by virtue of numerous violations of the terms and conditions
15 of his probation as alleged above. The facts and circumstances as set forth above are incorporated
16 herein.

17 **DISCIPLINE CONSIDERATIONS**

18 41. To determine the degree of discipline, if any, to be imposed on Respondent,
19 Complainant alleges that on or about February 11, 2003, in the Los Angeles Municipal Court in
20 Case No. 202240, Respondent was convicted of violating Vehicle Code section 23152,
21 subdivision (a), driving under the influence of alcohol.

22 42. To determine the degree of discipline, if any, to be imposed on Respondent,
23 Complainant alleges that on or about April 10, 2009, in Ventura County Superior Court case
24 number 2008052319, Respondent was convicted of violating Vehicle Code section 23152,
25 subdivision (a), driving under the influence of alcohol.

26 43. To determine the degree of discipline, if any, to be imposed on Respondent,
27 Complainant alleges that on or about July 1, 2011, in a prior disciplinary action entitled “In the
28 Matter of the Accusation Against Stephen Robert Shaw, M.D.,” before the Medical Board of

1 California, in Case No. 08-2002-141849, Respondent's license was revoked effective July 29,
2 2011, the revocation was stayed and he was placed on probation for five years under numerous
3 terms and conditions. (Exhibit A.)

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Medical Board of California issue a decision:

7 1. Revoking the probation that was granted by the Medical Board of California in Case
8 No. 08-2002-141849, and imposing the disciplinary order that was stayed thereby revoking
9 Physician's and Surgeon's Certificate No. G 47926 issued to Stephen Robert Shaw, M.D.;

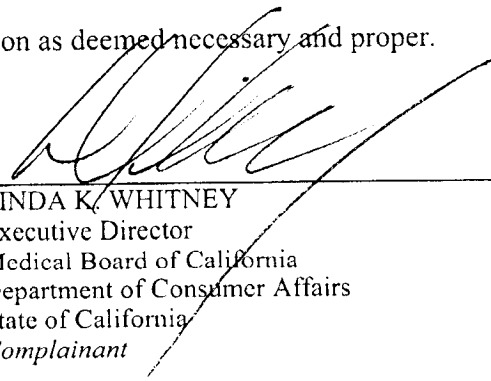
10 2. Revoking or suspending Physician's and Surgeon's Certificate G 47926 issued to
11 Stephen Robert Shaw, M.D.;

12 3. Revoking, suspending or denying approval of Stephen Robert Shaw, M.D.'s authority
13 to supervise physician assistants, pursuant to section 3527 of the Code;

14 4. Ordering Stephen Robert Shaw, M.D., if placed on probation, to pay the Medical
15 Board of California the costs of probation monitoring; and

16 5. Taking such other and further action as deemed necessary and proper.

17
18 DATED: May 10, 2013


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

22
23 LA2013607551
60976551.doc

EXHIBIT “A”

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)
Against:)

STEPHEN ROBERT SHAW, M.D.)
Physician's and Surgeon's)
Certificate No. G 47926)

Respondent)
_____)

File No. 08-2002-141849

DECISION

The attached **Stipulated Settlement and Disciplinary Order** is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on **July 29, 2011**.

IT IS SO ORDERED **July 1, 2011**.

MEDICAL BOARD OF CALIFORNIA

By: _____

Hedy Chang
Chair, Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
4 State Bar No. 111729
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5358
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **STEPHEN ROBERT SHAW, M.D.**

13 3418 Loma Vista Road, Suite 1A

14 Ventura, CA 93003

15 Physician's and Surgeon's Certificate No.

16 G-47926

17 Respondent.

Case No. 08-2002-141849

OAH No. 2010080969

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 PARTIES

23 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
24 California. She brought this action solely in her official capacity and is represented in this matter
25 by Kamala D. Harris, Attorney General of the State of California, by Mara Faust, Deputy
26 Attorney General.

2. Respondent Stephen Robert Shaw, M.D. (Respondent) is represented in this proceeding by attorney Benhamin Fenton, whose address is: Fenton Nelson, LLP 11835 West Olympic Blvd., Suite 925, Los Angeles, CA 90064.

3. On or about July 1, 1982, the Medical Board of California issued Physician's and Surgeon's Certificate No. G 47926 to Stephen Robert Shaw, M.D. (Respondent). The certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 08-2002-141849 and will expire on November 30, 2009, unless renewed.

JURISDICTION

4. Accusation No. 08-2002-141849 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 30, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 08-2002-141849 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 08-2002-141849. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 8. Respondent admits the truth of the first cause for discipline in Accusation No. 08-
3 2002-141849. Respondent stipulates that a factual basis exists for the purpose of imposing
4 discipline based upon the allegation in the second cause for discipline in Accusation No. 08-2002-
5 141849. Respondent further agrees that in any future disciplinary proceedings before the Medical
6 Board of California that all allegations set forth in Accusation No. 08-2002-141849 shall be
7 deemed admitted.

8 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
9 discipline and he agrees to be bound by the Medical Board of California (Board)'s imposition of
10 discipline as set forth in the Disciplinary Order below.

11 CIRCUMSTANCES IN MITIGATION

12 10. Respondent Stephen Robert Shaw, M.D. has never been the subject of any
13 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

14 RESERVATION

15 11. The admissions made by Respondent herein are only for the purposes of this
16 proceeding, or any other proceedings in which the Medical Board of California or other
17 professional licensing agency is involved, and shall not be admissible in any other criminal or
18 civil proceeding.

19 CONTINGENCY

20 12. This stipulation shall be subject to approval by the Medical Board of California.
21 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
22 Board of California may communicate directly with the Board regarding this stipulation and
23 settlement, without notice to or participation by Respondent or his counsel. By signing the
24 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
25 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
26 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
27 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
28

1 action between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

3 13. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
5 effect as the originals.

6 14. In consideration of the foregoing admissions and stipulations, the parties agree that
7 the Board may, without further notice or formal proceeding, issue and enter the following
8 Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 47926 issued
11 to Respondent Stephen Robert Shaw, M.D. (Respondent) is revoked. However, the revocation is
12 stayed and Respondent is placed on probation for five (5) years on the following terms and
13 conditions.

14 1. ALCOHOL - ABSTAIN FROM USE Respondent shall abstain completely from the
15 use of products or beverages containing alcohol.

16 2. BIOLOGICAL FLUID TESTING Respondent shall immediately submit to
17 biological fluid testing, at respondent's expense, upon the request of the Division or its designee.
18 A certified copy of any laboratory test results may be received in evidence in any proceedings
19 between the Board and the respondent. Failure to submit to, or failure to complete the required
20 biological fluid testing, is a violation of probation.

21 3. EDUCATION COURSE Within 60 calendar days of the effective date of this
22 Decision, and on an annual basis thereafter, for the first three years of probation, respondent shall
23 submit to the Division or its designee for its prior approval educational program(s) or course(s)
24 which shall not be less than 40 hours per year, for each year of probation. The educational
25 program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge
26 and shall be Category I certified, limited to classroom, conference, or seminar settings. The
27 educational program(s) or course(s) shall be at respondent's expense and shall be in addition to
28 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the

1 completion of each course, the Division or its designee may administer an examination to test
2 respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours
3 of continuing medical education of which 40 hours were in satisfaction of this condition.

4 4. CLINICAL TRAINING PROGRAM Within 60 calendar days of the effective date
5 of this Decision, respondent shall enroll in a clinical training or educational program equivalent to
6 the Physician Assessment and Clinical Education Program (PACE) offered at the University of
7 California - San Diego School of Medicine ("Program").

8 The Program shall consist of a Comprehensive Assessment program comprised of a two-
9 day assessment of respondent's physical and mental health; basic clinical and communication
10 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
11 respondent's specialty or sub-specialty, and at minimum, a 40 hour program of clinical education
12 in the area of practice in which respondent was alleged to be deficient and which takes into
13 account data obtained from the assessment, Decision(s), Accusation(s), and any other information
14 that the Division or its designee deems relevant. Respondent shall pay all expenses associated
15 with the clinical training program.

16 Based on respondent's performance and test results in the assessment and clinical
17 education, the Program will advise the Division or its designee of its recommendation(s) for the
18 scope and length of any additional educational or clinical training, treatment for any medical
19 condition, treatment for any psychological condition, or anything else affecting respondent's
20 practice of medicine. Respondent shall comply with Program recommendations.

21 At the completion of any additional educational or clinical training, respondent shall submit
22 to and pass an examination. The Program's determination whether or not respondent passed the
23 examination or successfully completed the Program shall be binding.

24 Respondent shall complete the Program not later than six months after respondent's initial
25 enrollment unless the Division or its designee agrees in writing to a later time for completion.

26 Failure to participate in and complete successfully all phases of the clinical training
27 program outlined above is a violation of probation.

28 If respondent fails to complete the clinical training program within the designated time

1 period, respondent shall cease the practice of medicine within 72 hours after being notified by the
2 Division or its designee that respondent failed to complete the clinical training program.

3 5. PSYCHIATRIC EVALUATION Within 30 calendar days of the effective date of
4 this Decision, and on whatever periodic basis thereafter may be required by the Division or its
5 designee, respondent shall undergo and complete a psychiatric evaluation (and psychological
6 testing, if deemed necessary) by a Division-appointed board certified psychiatrist, who shall
7 consider any information provided by the Division or designee and any other information the
8 psychiatrist deems relevant, and shall furnish a written evaluation report to the Division or its
9 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
10 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
11 psychiatric evaluations and psychological testing.

12 Respondent shall comply with all restrictions or conditions recommended by the evaluating
13 psychiatrist within 15 calendar days after being notified by the Division or its designee. Failure
14 to undergo and complete a psychiatric evaluation and psychological testing, or comply with the
15 required additional conditions or restrictions, is a violation of probation.

16 6. PSYCHOTHERAPY Within 60 calendar days of the effective date of this Decision,
17 respondent shall submit to the Division or its designee for prior approval the name and
18 qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral
19 degree in psychology and at least five years of postgraduate experience in the diagnosis and
20 treatment of emotional and mental disorders. Upon approval, respondent shall undergo and
21 continue treatment, including any modifications to the frequency of psychotherapy, until the
22 Division or its designee deems that no further psychotherapy is necessary.

23 The psychotherapist shall consider any information provided by the Division or its designee
24 and any other information the psychotherapist deems relevant and shall furnish a written
25 evaluation report to the Division or its designee. Respondent shall cooperate in providing the
26 psychotherapist any information and documents that the psychotherapist may deem pertinent.
27 Respondent shall have the treating psychotherapist submit quarterly status reports to the Division
28 or its designee. The Division or its designee may require respondent to undergo psychiatric

1 evaluations by a Division-appointed board certified psychiatrist.

2 If, prior to the completion of probation, respondent is found to be mentally unfit to resume
3 the practice of medicine without restrictions, the Division shall retain continuing jurisdiction over
4 respondent's license, and the period of probation shall be extended until the Division determines
5 that respondent is mentally fit to resume the practice of medicine without restrictions.

6 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7 Failure to undergo and continue psychotherapy treatment, or comply with any required
8 modification in the frequency of psychotherapy, is a violation of probation.

9 7. MONITORING - PRACTICE Within 30 calendar days of the effective date of this
10 Decision, respondent shall submit to the Division or its designee for prior approval as a practice,
11 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
12 licenses are valid and in good standing, and who are preferably American Board of Medical
13 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
14 relationship with respondent, or other relationship that could reasonably be expected to
15 compromise the ability of the monitor to render fair and unbiased reports to the Division,
16 including, but not limited to, any form of bartering, shall be in respondent's field of practice, and
17 must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

18 The Division or its designee shall provide the approved monitor with copies of the
19 Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of
20 receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit
21 a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands
22 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor
23 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan
24 with the signed statement.

25 Within 60 calendar days of the effective date of this Decision, and continuing throughout
26 probation, respondent's practice shall be monitored by the approved monitor. Respondent shall
27 make all records available for immediate inspection and copying on the premises by the monitor
28 at all times during business hours, and shall retain the records for the entire term of probation.

1 The monitor(s) shall submit a quarterly written report to the Division or its designee which
2 includes an evaluation of respondent's performance, indicating whether respondent's practices are
3 within the standards of practice of medicine or billing, or both, and whether respondent is
4 practicing medicine safely, billing appropriately or both.

5 It shall be the sole responsibility of respondent to ensure that the monitor submits the
6 quarterly written reports to the Division or its designee within 10 calendar days after the end of
7 the preceding quarter.

8 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of
9 such resignation or unavailability, submit to the Division or its designee, for prior approval, the
10 name and qualifications of a replacement monitor who will be assuming that responsibility within
11 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 days
12 of the resignation or unavailability of the monitor, respondent shall be suspended from the
13 practice of medicine until a replacement monitor is approved and prepared to assume immediate
14 monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar
15 days after being so notified by the Division or designee.

16 In lieu of a monitor, respondent may participate in a professional enhancement program
17 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
18 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
19 chart review, semi-annual practice assessment, and semi-annual review of professional growth
20 and education. Respondent shall participate in the professional enhancement program at
21 respondent's expense during the term of probation.

22 Failure to maintain all records, or to make all appropriate records available for immediate
23 inspection and copying on the premises, or to comply with this condition as outlined above is a
24 violation of probation.

25 8. SOLO PRACTICE Respondent is prohibited from engaging in the solo practice of
26 medicine.

27 9. NOTIFICATION Prior to engaging in the practice of medicine, the respondent shall
28 provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief

1 Executive Officer at every hospital where privileges or membership are extended to respondent,
2 at any other facility where respondent engages in the practice of medicine, including all physician
3 and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every
4 insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall
5 submit proof of compliance to the Division or its designee within 15 calendar days.

6 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7 10. SUPERVISION OF PHYSICIAN ASSISTANTS During probation, respondent is
8 prohibited from supervising physician assistants for the first three years of probation.

9 11. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all rules
10 governing the practice of medicine in California, and remain in full compliance with any court
11 ordered criminal probation, payments and other orders.

12 12. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations
13 under penalty of perjury on forms provided by the Division, stating whether there has been
14 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
15 not later than 10 calendar days after the end of the preceding quarter.

16 13. PROBATION UNIT COMPLIANCE Respondent shall comply with the Division's
17 probation unit. Respondent shall, at all times, keep the Division informed of respondent's
18 business and residence addresses. Changes of such addresses shall be immediately
19 communicated in writing to the Division or its designee. Under no circumstances shall a post
20 office box serve as an address of record, except as allowed by Business and Professions Code
21 section 2021(b).

22 Respondent shall not engage in the practice of medicine in respondent's place of residence.
23 Respondent shall maintain a current and renewed California physician's and surgeon's license.

24 Respondent shall immediately inform the Division, or its designee, in writing, of travel to
25 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than
26 30 calendar days.

27 14. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent shall be
28 available in person for interviews either at respondent's place of business or at the probation unit

1 office, with the Division or its designee, upon request at various intervals, and either with or
2 without prior notice throughout the term of probation.

3 15. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent should
4 leave the State of California to reside or to practice, respondent shall notify the Division or its
5 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is
6 defined as any period of time exceeding 30 calendar days in which respondent is not engaging in
7 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

8 All time spent in an intensive training program outside the State of California which has
9 been approved by the Division or its designee shall be considered as time spent in the practice of
10 medicine within the State. A Board-ordered suspension of practice shall not be considered as a
11 period of non-practice. Periods of temporary or permanent residence or practice outside
12 California will not apply to the reduction of the probationary term. Periods of temporary or
13 permanent residence or practice outside California will relieve respondent of the responsibility to
14 comply with the probationary terms and conditions with the exception of this condition and the
15 following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and
16 Cost Recovery.

17 Respondent's license shall be automatically cancelled if respondent's periods of temporary
18 or permanent residence or practice outside California total two years. However, respondent's
19 license shall not be cancelled as long as respondent is residing and practicing medicine in another
20 state of the United States and is on active probation with the medical licensing authority of that
21 state, in which case the two year period shall begin on the date probation is completed or
22 terminated in that state.

23 16. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

24 In the event respondent resides in the State of California and for any reason respondent
25 stops practicing medicine in California, respondent shall notify the Division or its designee in
26 writing within 30 calendar days prior to the dates of non-practice and return to practice. Any
27 period of non-practice within California, as defined in this condition, will not apply to the
28 reduction of the probationary term and does not relieve respondent of the responsibility to comply

1 with the terms and conditions of probation. Non-practice is defined as any period of time
2 exceeding 30 calendar days in which respondent is not engaging in any activities defined in
3 sections 2051 and 2052 of the Business and Professions Code.

4 All time spent in an intensive training program which has been approved by the Division or
5 its designee shall be considered time spent in the practice of medicine. For purposes of this
6 condition, non-practice due to a Board-ordered suspension or in compliance with any other
7 condition of probation, shall not be considered a period of non-practice.

8 Respondent's license shall be automatically cancelled if respondent resides in California
9 and for a total of two years, fails to engage in California in any of the activities described in
10 Business and Professions Code sections 2051 and 2052.

11 17. COMPLETION OF PROBATION Respondent shall comply with all financial
12 obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior
13 to the completion of probation. Upon successful completion of probation, respondent's certificate
14 shall be fully restored.

15 18. VIOLATION OF PROBATION Failure to fully comply with any term or condition
16 of probation is a violation of probation. If respondent violates probation in any respect, the
17 Division, after giving respondent notice and the opportunity to be heard, may revoke probation
18 and carry out the disciplinary order that was stayed. If an Accusation, Petition to Revoke
19 Probation, or an Interim Suspension Order is filed against respondent during probation, the
20 Division shall have continuing jurisdiction until the matter is final, and the period of probation
21 shall be extended until the matter is final.

22 19. LICENSE SURRENDER Following the effective date of this Decision, if
23 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the
24 terms and conditions of probation, respondent may request the voluntary surrender of
25 respondent's license. The Division reserves the right to evaluate respondent's request and to
26 exercise its discretion whether or not to grant the request, or to take any other action deemed
27 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,
28 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the

1 Division or its designee and respondent shall no longer practice medicine. Respondent will no
2 longer be subject to the terms and conditions of probation and the surrender of respondent's
3 license shall be deemed disciplinary action. If respondent re-applies for a medical license, the
4 application shall be treated as a petition for reinstatement of a revoked certificate.

5 20. PROBATION MONITORING COSTS Respondent shall pay the costs associated
6 with probation monitoring each and every year of probation, as designated by the Division, which
7 were currently set at \$3,999.00, for 2011, but may be adjusted on an annual basis. Such costs
8 shall be payable to the Medical Board of California and delivered to the Division or its designee
9 no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the
10 due date is a violation of probation.

11
12 ACCEPTANCE

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
14 discussed it with my attorney, Benhamin Fenton. I understand the stipulation and the effect it
15 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
16 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
17 Decision and Order of the Medical Board of California.

18
19 DATED: 5/16/2011

Stephen R. Shaw
STEPHEN ROBERT SHAW, M.D.
Respondent

21 I have read and fully discussed with Respondent Stephen Robert Shaw, M.D. the terms and
22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
23 I approve its form and content.

24 DATED: 5/16/11

Benjamin Fenton
BENJAMIN FENTON
Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

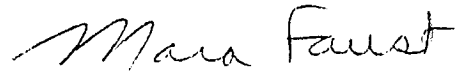
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: May 16, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GAIL M. HEPPELL
Supervising Deputy Attorney General



MARA FAUST
Deputy Attorney General
Attorneys for Complainant

SA2009308688
10665223.doc

Exhibit A

Accusation No. 08-2002-141849

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO April 30, 2010
BY Brenda Allen ANALYST

1 EDMUND G. BROWN JR.
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
4 State Bar No. 111729
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5358
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 08-2002-141849

12 **STEPHEN ROBERT SHAW, M.D.**
3418 Loma Vista Road, Suite 1A
13 Ventura, CA 93003

A C C U S A T I O N

14 Physician's and Surgeon's Certificate
15 No. G47926

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
21 as the Interim Executive Director of the Medical Board of California, Department of Consumer
22 Affairs.

23 2. On or about July 1, 1982, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number G47926 to Stephen Robert Shaw, M.D. (Respondent). This
25 certificate expires on November 30, 2011.

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

4. Section 2236 of the Code states:

“(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality¹ of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The prosecuting agency shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

“(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

2

1 5. Section 2239 of the Code states:

2 "(a) The use or prescribing for or administering to himself or herself, of any controlled
3 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
4 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
5 any other person or to the public, or to the extent that such use impairs the ability of the licensee
6 to practice medicine safely or more than one misdemeanor or any felony involving the use,
7 consumption, or self-administration of any of the substances referred to in this section, or any
8 combination thereof, constitutes unprofessional conduct. The record of the conviction is
9 conclusive evidence of such unprofessional conduct.

10 "(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is
11 deemed to be a conviction within the meaning of this section. The Division of Medical Quality
12 may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing
13 may order the denial of the license when the time for appeal has elapsed or the judgment of
14 conviction has been affirmed on appeal or when an order granting probation is made suspending
15 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4
16 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of
17 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,
18 information, or indictment."

19 6. Section 2234 of the Code states:

20 "The Division of Medical Quality shall take action against any licensee who is charged with
21 unprofessional conduct. In addition to other provisions of this article, unprofessional conduct
22 includes, but is not limited to, the following:

23 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
24 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
25 Practice Act]."

26

27 "(d) Incompetence."

28 ...

1 "(f) Any action or conduct which would have warranted the denial of a certificate."

2 7. Section 820 of the Code states:

3 "Whenever it appears that any person holding a license, certificate or permit under this
4 division or under any initiative act referred to in this division may be unable to practice his or her
5 profession safely because the licentiate's ability to practice is impaired due to mental illness, or
6 physical illness affecting competency, the licensing agency may order the licentiate to be
7 examined by one or more physicians and surgeons or psychologists designated by the agency.
8 The report of the examiners shall be made available to the licentiate and may be received as direct
9 evidence in proceedings conducted pursuant to Section 822."

10 8. Section 822 of the Code states in pertinent part that if a licensing agency determines
11 that its licentiate's ability to practice his or her profession safely is impaired because the licentiate
12 is mentally ill, or physically ill affecting competency, the licensing agency may revoke the
13 licentiate's certificate, suspend the licentiate's right to practice or place the licentiate on
14 probation.

15 9. Section 480 of the Code states, in pertinent part:

16 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
17 one of the following:

18 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
19 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a
20 board is permitted to take following the establishment of a conviction may be taken when the
21 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
22 an order granting probation is made suspending the imposition of sentence, irrespective of a
23 subsequent order under the provisions of section 1203.4 of the Penal Code.

24 ...

25 "(3) Done any act which if done by a licentiate of the business or profession in question,
26 would be grounds for suspension or revocation of license.

27 ///

28 ///

1 "The board may deny a license pursuant to this subdivision only if the crime or act is
2 substantially related to the qualifications, functions or duties of the business or profession for
3 which application is made."

4

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

[Bus. & Prof. Code §§ 2236, 2239, 2234(f), 480(a)(1) and (a)(3)]

7 10. Respondent is subject to disciplinary action under sections 2236, 2239, 2234(f),
8 480(a)(1) and 480(a)(3) in that he suffered two (2) misdemeanor criminal convictions for driving
9 under the influence of alcohol and such crimes are substantially related to the qualifications,
10 function or duties of a physician and surgeon and constitutes more than one (1) alcohol related
11 misdemeanor conviction. The circumstances are as follows:

12 11. On or about November 23, 2002, Respondent was arrested for driving under the
13 influence of alcohol (VC 23152(A)), a misdemeanor, and plead nolo contendere to the charge on
14 February 11, 2003, in Los Angeles Municipal Court number 202240.

15 12. On or about September 2, 2003, Respondent signed a Statement of Understanding to
16 enter the Board's Physician Diversion Program, which included a waiver of any time-based
17 defenses to the filing of charges including laches and any applicable statute of limitations.
18 Respondent was formally accepted into the Board's Diversion Program on April 12, 2004, and
19 was terminated from the program on June 30, 2008, for "other than successful completion."

20 13. On or about December 12, 2008, Respondent was arrested for driving under the
21 influence of alcohol (VC 23152(A)), a misdemeanor, and plead nolo contendere to the charge on
22 April 10, 2009, in Ventura County Superior Court number 2008052319.

SECOND CAUSE FOR DISCIPLINE

(Failure to Pass Psychiatric Evaluation/Incompetence)

[Bus. & Prof. Code §§ 2234(a), 2234(d), 820 and 822]

25 14. Respondent is subject to disciplinary action under sections 2234(a), 2234(d), 820 and
26 822 in that Respondent failed to pass a psychiatric evaluation performed pursuant to section 820
27 of the Code, and was found unsafe to practice medicine thereby demonstrating a lack of ability
28 and/or competency to practice medicine. The circumstances are as follows:

15. On or about July 2, 2009, Respondent submitted to a mental examination pursuant to an Order Compelling a psychiatric examination. On or about July 30, 2009, the Board's psychiatrist found that Respondent was not safe to practice medicine safely because of his alcohol abuse.

P R A Y E R

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G47926,
issued to Stephen Robert Shaw, M.D.;
2. Revoking, suspending or denying approval of Stephen Robert Shaw, M.D.'s authority
to supervise physician assistants, pursuant to section 3527 of the Code; and
4. Taking such other and further action as deemed necessary and proper.

DATED: April 30, 2010

LINDA K. WHITNEY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

SA2009308688
10549455.doc